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PCT

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

REC'D 29 NOV 2004

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Applicant's or agent's file reference P.PURA.21BWO		FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/PEA416)	
International application No. PCT/BE 03/00197	International filing date (day/month/year) 14.11.2003	Priority date (day/month/year) 14.11.2002	
International Patent Classification (IPC) or both national classification and IPC A21D2/24			
Applicant PURATOS NAAMLOZE VENNOOTSCHAP et al.			
<p>1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of 5 sheets, including this cover sheet.</p> <p><input type="checkbox"/> This report is also accompanied by ANNEXES, i.e. sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).</p> <p>These annexes consist of a total of sheets.</p>			
<p>3. This report contains indications relating to the following items:</p> <p>I <input checked="" type="checkbox"/> Basis of the opinion</p> <p>II <input type="checkbox"/> Priority</p> <p>III <input type="checkbox"/> Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</p> <p>IV <input type="checkbox"/> Lack of unity of invention</p> <p>V <input checked="" type="checkbox"/> Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</p> <p>VI <input type="checkbox"/> Certain documents cited</p> <p>VII <input type="checkbox"/> Certain defects in the international application</p> <p>VIII <input type="checkbox"/> Certain observations on the international application</p>			
Date of submission of the demand 11.06.2004		Date of completion of this report 25.11.2004	
Name and mailing address of the International preliminary examining authority:  European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465		Authorized Officer Adechy, M Telephone No. +49 89 2399-8576 	

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT**

International application No. **PCT/BE 03/00197**

I. Basis of the report

1. With regard to the **elements** of the international application (*Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17)*):

Description, Pages

1-19 as originally filed

Claims, Numbers

1-26 as originally filed

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language: , which is:

- ☐ the language of a translation furnished for the purposes of the international search (under Rule 23.1(b)).
 - ☐ the language of publication of the international application (under Rule 48.3(b)).
 - ☐ the language of a translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).
3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:
- ☐ contained in the international application in written form.
 - ☐ filed together with the international application in computer readable form.
 - ☐ furnished subsequently to this Authority in written form.
 - ☐ furnished subsequently to this Authority in computer readable form.
 - ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
 - ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.
4. The amendments have resulted in the cancellation of:
- ☐ the description, . pages:
 - ☐ the claims, Nos.:
 - ☐ the drawings, sheets:
5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)).
- (Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.)

6. Additional observations, if necessary:

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**V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability;
citations and explanations supporting such statement**

1. Statement

Novelty (N)	Yes: Claims	
	No: Claims	1-4,6,8-20,23
Inventive step (IS)	Yes: Claims	
	No: Claims	1-26
Industrial applicability (IA)	Yes: Claims	1-26
	No: Claims	

2. Citations and explanations

see separate sheet

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Re Item V

Reasoned statement under Art 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1) Reference is made to the following documents:

D1: JP(A) 10327751
D2: JP(A) 04011893
D3: JP(A) 08009936
D4: JP(A) 08154665
D5: JP(A) 05049385
D6: US-A-3547659
D7: US-A-2920965

2) Novelty Art 33 (1) and (2) PCT

The subject matter of claim 1 is not regarded as novel since, e.g. D1 teaches that flavour of fermented milk can be improved by adding to said fermentation medium a series of amino acids selected from phenylalanine, leucine.

D2 teaches that the production of aromatic amino acids can be increased by accumulation of amino acids such as phenylalanine.

D3 teaches that a blend of amino acids such as leucine, isoleucine, valine phenylalanine impart good taste in Worcestershire sauce when fermentation is carried out.

D6 discloses the use of amino acids such as valine to impart good flavour to bread products.

D7 discloses the use of a yeast fermentation product based on leucine and being capable of enhancing cheese flavour in dough, sponge and other bakery products.

The subject matter of dependent claims, with the exception of claims 5, 7, 21, 22, 24, 25 and 26, would be regarded as novel only in relation with an independent claim fulfilling the requirements of Art. 33 (1) and (2) PCT.

3) Inventive step Art 33 (1) and (3) PCT

The problem to be solved consists in improving food flavour, in particular bakery product flavour by means of amino acids, being precursors of flavouring agent, as well

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as influencing the flavour development by fermentation.

The subject matter of dependent claims 22, 24, 25 and 26 is not regarded as involving an inventive step since it only concerns conventional practice such as vacuum packing, and the fact that the product is dry.

The subject matter of claims 5, 7 and 21 is not regarded as involving an inventive step since the amount of individual amino acids as well as that of the whole blend does not appear to solve any technical problem over the prior art.

4) Additional remarks

Expressions such as "sufficiently effective amount", "increase flavour metabolism" found in claim 1, are unclear.

The subject matter of claims 4 and 19 is unclear since the amino acids are described as optional, although these are essential for the present application.

The use of parenthesis in claim 6 renders the subject matter of said claim unclear.

Although claim 23 has been drafted as separate independent claims, it appears to relate effectively to the same subject-matter than that of claim 17 (it seems that a yeast is present already together with the ingredient claimed). The aforementioned claims therefore lack conciseness. Moreover, lack of clarity of the claims as a whole arises, since the plurality of independent claims makes it difficult, to determine the matter for which protection is sought.

Hence, claims 1, 4, 6, 19, 23 do not meet the requirements of Article 6 PCT.

It is further stressed that any process feature in a product claim is not taken into account unless it confers to the said product a technical characteristic. Furthermore, the origin of the amino acids is not a limiting feature and is not taken into account.